

Message Text

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ACTION EUR-12

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EA-09 FRB-01 INR-07 IO-13 NEA-10 NSAE-00 USIA-15
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FOR OECD - CARL WAIT

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TAGS: TGEN, COE, OECD
SUBJECT: COUNCIL OF EUROPE WORK ON TRANSFRONTIER DATA FLOWS

REF: A) STRASBOURG 73 B) OECD PARIS 5442

1. SUMMARY: IN LIGHT OF DEPARTMENT'S INTEREST IN FOLLOWING DEVELOPMENTS IN THE COUNCIL OF EUROPE (COE) CONCERNING THAT FORUM'S WORK ON AN INTERNATIONAL CONVENTION ON TRANSFRONTIER DATA FLOWS, VICE CONSUL BRIAN MOHLER VISITED DR. FRITZ HONDIUS, THE COE'S CHIEF EXPERT IN THIS AREA MAY 18 TO REVIEW THE PRESENT STATUS OF THE COUNCIL'S WORK. DISCUSSION INCLUDED HONDIUS OBSERVATIONS ON WORK THE OECD AND THE EUROPEAN COMMUNITIES (EC) ARE UNDERTAKING IN TRANSFRONTIER DATA FLOW AREA AS WELL AS COE'S PARTICIPATION IN THE OECD SYMPOSIUM ON THE SAME SUBJECT IN SEPTEMBER. END SUMMARY.

2. VICE CONSUL MOHLER MET WITH DR. FRITZ HONDIUS OF COE STAFF MAY 18 TO REVIEW PRESENT STATUS OF COE WORK ON AN INTERNATIONAL CONVENTION ON TRANSFRONTIER DATA FLOWS. HONDIUS, THE MAJOR UNCLASSIFIED

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COE STAFF EXPERT ON THIS SUBJECT, OUTLINED THE INFORMAL DIVISION OF WORK WHICH HAS DEVELOPED BETWEEN THE COE, THE EUROPEAN COMMUNITIES (EC), AND THE OECD IN APPROACHING THIS BROAD ISSUE. IN HONDIUS VIEW, THE COE IS PRIMARILY RESPONSIBLE FOR THE LEGAL DRAFTING OF A PROPOSED INTERNATIONAL CONVENTION WHICH WILL SEEK TO CONTROL TRANSFRONTIER DATA FLOWS FROM THE STANDPOINT OF PROTECTING COMPUTERIZED INFORMATION ON PRIVATE INDIVIDUALS.

THIS EFFORT GOT UNDERWAY IN FEBRUARY WHEN A COE DRAFTING GROUP OF A COMMITTEE OF EXPERTS WAS CONVENED IN STRASBOURG. A SECOND MEETING OF THIS GROUP IS SCHEDULED JUNE 1-3.

3. THE OECD, FOR ITS PART, HONDIUS SAID, IS IN THE PROCESS OF PREPARING GENERAL POLICY STUDIES WHICH EXAMINE THE POLICY IMPLICATIONS OF THE TRANSFER OF PERSONAL, COMMERCIAL, AND OTHER TYPES OF DATA VIA COMPUTER SYSTEMS ACROSS INTERNATIONAL FRONTIERS AND WILL SEEK TO DRAW UPON THE PAST EXPERIENCES OF OECD MEMBER STATES, INCLUDING THE UNITED STATES, CANADA AND SWEDEN, WHOSE DATA PROCESSING INDUSTRY IS CONSIDERABLY MORE ADVANCED THAN THOSE EXISTING IN EUROPE. THE OECD ORGANIZED SYMPOSIUM SCHEDULED FOR VIENNA IN SEPTEMBER IS A MAJOR COMPONENT OF THIS EFFORT.

4. THE EC, HONDIUS CONTINUED, WILL PROBABLY EXAMINE THE PROTECTION OF NON PERSONAL INTERESTS DATA (E.G. DATA PERTAINING TO BUSINESS AND INDUSTRIAL OPERATIONS) AS OPPOSED TO THE COE S INVESTIGATION OF DATA TRANSFERS RELATING TO INDIVIDUALS. HONDIUS ALSO BELIEVES THAT THE EC WILL ALSO UNDERTAKE AN INVESTIGATION OF HOW THE INCORPORATION OF DATA SECURITY MEASURES DESIGNED TO PREVENT UNAUTHORIZED USE OF DATA BANKS CAN AFFECT THE COMPETITIVENESS OF THE EUROPEAN COMPUTER INDUSTRY. THE ONLY WORK IN THIS AREA OF WHICH THE COE IS AWARE IS A STUDY RECENTLY DONE BY WEST GERMANY, INDICATING THAT SUCH PROTECTIVE MEASURES WOULD PROBABLY ADD APPROXIMATELY ONE PERCENT TO THE TOTAL PRICE OF AN ELECTRONIC DATA SYSTEM. A POSSIBLE RESULT OF SUCH A STUDY BY THE EC WOULD BE THE FORMULATION OF COMMON STANDARDS OF SECURITY MEASURES AGAINST QUOTE REASONABLE UNQUOTE RISKS. A COMMON STANDARD WOULD UNCLASSIFIED

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BE DESIRABLE SO THAT A COMPUTER SYSTEM PRODUCED IN ANY ONE COUNTRY WOULD NOT HAVE A COMPETITIVE COST ADVANTAGE OVER ONE MANUFACTURED IN ANOTHER STATE BECAUSE ITS LESS EXPENSIVE SECURITY SYSTEM PROVIDED A LOWER DEGREE OF PROTECTION. SUCH A STANDARD COULD THEN BE EXTENDED TO THE COE AND THE OECD.

5. A PRELIMINARY FIRST DRAFT OF THE COE CONVENTION ON TRANSFRONTIER DATA FLOWS COULD BE READY BY THE END OF 1977, HONDIUS REMARKED, IF ALL GOES WELL. THUS, ALLOWING TIME FOR REVISIONS AND CONSIDERATION BY THE COE S COUNCIL OF MINISTERS, A FINAL CONVENTION COULD BE SUBMITTED TO THE COE MEMBERS TWO YEARS FROM NOW. THE FORM OF THE CONVENTION, HE CONTINUED, HAS NOT YET BEEN DECIDED. IT COULD EITHER TAKE THE FORM OF A COUNCIL OF EUROPE CONVENTION WHICH COULD BE SUBSEQUENTLY OPENED UP TO OTHER NON-MEMBER STATES, LIKE THE U.S. OR, A MORE OPEN-ENDED AD HOC INTERNATIONAL CONVENTION MIGHT BE DRAFTED TO WHICH ANY STATE COULD ADHERE FROM THE BEGINNING.

6. THE NATURE OF COE PARTICIPATION IN THE OECD VIENNA SYMPOSIUM

IS NOT YET CLEAR SINCE HONDIUS HAS NOT YET RECEIVED ANY WORD FROM THE ORGANIZERS WITH REGARD TO ANY SPECIAL SYMPOSIUM TOPIC FOR THE COUNCIL. HONDIUS THOUGHT IT UNCERTAIN, AT THIS POINT, WHETHER HE HIMSELF WOULD ATTEND BECAUSE OF TIME AND BUDGETARY CONSTRAINTS, BUT HE ASSURED MOHLER THAT THE COUNCIL WOULD BE A PARTICIPANT. HONDIUS HOPED THAT ANY U.S. OBSERVER WHO ATTENDED THE VIENNA MEETING, WOULD BE ABLE TO ATTEND THE COE S MEETING ON TRANSFRONTIER DATA FLOWS WHICH WILL PROBABLY TAKE PLACE IN STRASBOURG IMMEDIATELY AFTER THE CONCLUSION OF THE SYMPOSIUM. A GENERAL DISCUSSION OF THE GENERAL TRENDS AND POLICY IMPLICATIONS OF THIS TOPIC AT VIENNA, HONDIUS BELIEVES, WILL BE AN EXCELLENT PREPARATION FOR A MORE DETAILED FOLLOW-ON MEETING ON PARTICULAR ISSUES AT STRASBOURG.

7. HONDIUS INQUIRED WHETHER ANY PARTICULAR U.S. STATE HAS LEGISLATION REGULATING INTER-STATE TRANSFER OF PERSONAL DATA THROUGH A COMPUTER SYSTEM. FOR EXAMPLE, HE WONDERED WHETHER THERE

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IS ANY STATE LEGISLATION CONTROLLING ACCESS A DOCTOR IN ONE STATE MIGHT HAVE TO COMPUTERIZED MEDICAL DATA ON A PATIENT CONTAINED IN A DATA BANK LOCATED IN A SECOND STATE. POST WOULD APPRECIATE ANY INFORMATION DEPARTMENT WOULD PROVIDE ON THIS.

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